

Exhibit No. 2Date 3/11/09March 11, 2009 HB 197

In Support of HB197

Chairman Shockley and Honorable Members:

My name is Nancy MacCracken and I am the Senior Law Clerk for the Sixth Judicial District Court in Livingston. I am here today to testify on behalf of House Bill 197.

Currently there is a discrepancy in the laws regarding recall petition signatures. Section 2-16-614 states, in part, that "recall petitions for elected or appointed county officers shall contain the signatures of qualified electors equaling at least 15% of the number of persons registered to vote at the preceding county general election". By itself, that is quite clear. However, Section 2-16-612(3) states, in part, that "if a political subdivision is divided into election districts, a person must be a qualified elector in the election district to be eligible to sign a petition to recall an officer elected from the election district." Which statutes applies?

Montana counties are generally divided into election districts. By way of example, one County Commissioner must reside in and run from each district. In most counties, in both the primary and general elections, the entire electorate of the county votes for each and every Commissioner because the Commissioners work for the good of the entire County. When a Court applies Section 2-16-612(3) strictly, the Court would have to require that the recall petition be signed by only qualified electors from the subject Commissioner's district. This effectively disenfranchises the remaining electors of the county from having a say in the recall petition process. The opposite result can also occur. When a Court applies Section 2-16-614 strictly, it is possible that of the signatures on a recall petition, which must total 15% of the eligible voters in the County, none of the signatures may be from electors residing in the district of the subject Commissioner. That effectively disenfranchises the electors from the subject Commissioner's district from the recall petition process.

The bill before you amends both sections of the code. The result is that persons must still be qualified electors of the political subdivision (or county in my example) to sign a recall petition for an officer of that political subdivision, but 15% of the total signatures must come from the elected officer's district. In mathematic terms it is 15% of 15%.

It is very important to recognize that this bill only pertains to the statutes governing recall petitions, not recall ballots. In Counties where specific county officers must run from and be elected from specific districts, this gives the opportunity for all electors to potentially sign a recall petition, so long as at least 15% of the signatures are from the specific district, but it has no bearing or influence over the recall ballot, which is not a subject this bill addresses.

This bill ensures that at least 15% of the signatures collected on a recall petition must be from qualified electors in the election district from which the officer was elected or appointed. We believe this solves the present statutory conflict, and ensures that no segment of the electorate is disenfranchised with regard to a recall petition.

I urge you to recommend passage of House Bill 197.  
Thank you.

